163 U.S. 680

TRANSCRIPT OF RECORD.

163-680

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 301.

CERTAIN REAL ESTATE KNOWN AS THE COAL LANDS, AND ANGUS M. CANNON, TRUSTEE, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF UTAH.

FILED DECEMBER 4, 1893.

(15,460.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., AUGUST 5, 1895.

a In the District Court for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff and Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, Utah Territory, * * * known as the Coal Lands, and Angus M. Cannon, Trustee, Defendants and Appellants. } No. 328.

Transcript.

Indorsed: Filed and transmitted December 3rd, 1892. Henry G McMillan, clerk, by Geo. D. Loomis, dep'ty. No. 328. Filed in the supreme court Dec. 3, 1892, at Salt Lake City, Utah. Jos. P. Bache, clerk.

1 328.

In the District Court for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH TERritory, particularly described as follows: An undivided one-half, ½, of the south half of the southeast ¼ and the southeast quarter of the southwest quarter and lot 4, section 18, and the north half of the northeast ¼, in section 19, all of said land being in township 3 north, of range 6 east, in Summit county, Utah Territory; and Angus M. Cannon Trustee, Defendants.

On this 23rd day of December, 1890, comes W. H. H. Miller, Attorney General of the United States, and with him Charles S. Varian, attorney for the United States for the Territory of Utah, to prosecute a civil action in which the United States are concerned, and informs the court—

That the United States of America hereby brings suit to escheat certain real property in the title herein and hereinafter particularly described and against the defendant above named as trustee, and in this behalf complains, for that—

First. That on the 19th day of January, A. D. 1855, by an act of the territorial assembly of the Territory of Utah the Church of Jesus Christ of Latter-day Saints became an incorporated body for religious and charitable purposes, and from said date continued
2 to be a corporation of the nature and kind above set out up to and until the 3rd day of March, A. D. 1887.

Second. That on the 1st day of July, A. D. 1862, the Congress of the United States passed an act entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States

and other places and disapproving and annulling certain acts of the legislative assembly of the Territory of Utah," which said act, among other things, provided in substance and effect that it should not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the territorial government of a greater value than $50,000, and that all real estate acquired or held by any such corporation or association contrary to the provisions of said act should be forfeited and escheated to the United States.

Third. That on the 3rd day of March, A. D. 1887, the Congress of the United States passed an act entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes, and approved March 22nd, 1882,'" and in and by which said act it was provided, amongst other things, that it should be the duty of the Attorney General of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of all corporations obtained or held in violation of the act of July 1st, 1862, above mentioned, and it was, moreover, provided by said act of Congress that the act of the legislative assembly of the Territory of Utah hereinbefore referred to, incorporating the Church of Jesus Christ of Latter-day Saints, should — and it thereby was disapproved and annulled, and that said corporation should be and it thereby was dissolved, and that it should
3 be the duty of the Attorney General of the United States to institute proceedings in the supreme court of the Territory of Utah for the purpose of executing the provisions of said act and to wind up the affairs of said corporation, and for other purposes set out in said act; wherefore the said corporation of the Church of Jesus Christ of Latter-day Saints became and from henceforth was a defunct corporation.

Fourth. That in pursuance of the act of Congress last aforesaid the Attorney General of the United States did, on the 30th day of July, A. D. 1887, commence a suit in the name of the United States in the supreme court of the Territory of Utah for the purpose of having a dissolution of said corporation judicially ascertained and declared, the winding up of its affairs, the distribution of its estate according to law, the appointment of a receiver pending the final determination of said suit, and for the purpose of collecting, managing, and preserving all the property of said dissolved corporation.

Fifth. That on the 17th day of November, A. D. 1877, the supreme court of the Territory of Utah, in the suit above named, appointed a receiver for the purposes aforesaid, and in accordance with the order of said court the said receiver has heretofore taken possession of and now holds, subject to the order of said court, a large amount of property, real and personal, formerly owned and held by said dissolved corporation, and especially *amd* several tracts of real estate hereinafter especially described.

And for that on the 3rd day of March, A. D. 1877, when said cor-

poration became dissolved, as aforesaid, it held and owned, by and through one John Taylor, its trustee, in trust, and by and through certain other persons, upon secret and express trusts,
4 large tracts and parcels of real estate, exceeding in value $1,000,000, and among others the following-described parcels:

1st. All of block 87, in plat "A," Salt Lake City survey, in Salt Lake county, Utah Territory, known as the Temple block, of the value of $750,000; and,

2nd. An undivided one-half of the following-described tracts of land: South half of the S. E. ¼, the southeast ¼ of the S. W. ¼, and lot 4, section 18, and the north half of the N. E. ¼, in section 19, all of said land being in township 3 north, range 6 east, in Summit county, Utah Territory.

And for that a part of the west ½ of the real estate above described as the "Temple block" and all buildings and improvements upon the same, and which said block and buildings were at the date of the dissolution of said corporation as aforesaid used exclusively for the worship of God according to the tenets of said Church of Jesus Christ of Latter-day Saints, and which said property has been acquired and held in violation of the said act of July 1st, A. D. 1862, being in excess of $50,000 in value, was and is exempt from the forfeiture prescribed by said act by virtue of said act of Congress of March 3rd, 1887, and the east half of said block was and is of great value and largely in excess of $50,000.

And for that in addition to the real estate known as the "Temple block," held and used as aforesaid, the corporation of the Church of Jesus Christ of Latter-day Saints on the 3rd day of March, 1887, when it became and was dissolved as aforesaid, had theretofore and subsequently to the passage of the act of Congress
5 of July 1st, 1862, acquired and was at the date of its dissolution holding in the name of one Angus M. Cannon, who held and now holds the same upon a trust, the following-described tracts of land, situated in Summit county, Utah Territory, to wit:

An undivided one-half of the following-described tracts of land: The south half of the S. E. ¼, the S. E. quarter of the S. W. ¼, and lot 4, section 18, and the north half of the N. E. ¼, in section 19, all of said land being in township three north, of range 6 east, Salt Lake meridian.

That the last above described real estate was and is of the value of $30,000, which is all and entire in excess of real estate the said corporation was by law entitled to hold, and no part of said real estate was held or occupied by said corporation as a building or ground appurtenant thereto for the purposes of the worship of God or parsonages connected therewith or as a burial ground.

And the said United States complains further, for that information against the hereinbefore-described property and all claimants thereto was filed in this court on October 8th, 1888, and thereupon a monition was issued to the United States marshal of the Territory to seize the property and give due notice to all persons claiming the same or having anything to say why it should not be escheated to the United States to be and appear before the court at a time and

place specified, and then and there to make known their claims; that such notice was duly given and the property seized; that the only person who has appeared in obedience to said monition, although the time for appearance has long since expired,
6 is the defendant, the said Angus M. Cannon, who has entered and filed his allegations in writing, whereby he makes claim to said property as the trustee for an alleged voluntary association known as the Church of Jesus Christ of Latter-day Saints, which said association, as plaintiff is informed and believes, and therefore charges the fact to be, is composed of all the members of the Church of Jesus Christ of Latter-day Saints, formerly a corporation as aforesaid, and is practically and in fact the successor to said corporation.

And the said United States upon its information and belief alleges and complains for that the defendant has no other right, title, or claim to said property or any part thereof except as trustee, as hereinbefore stated.

And for that all of said real property as hereinbefore described was acquired by the late corporation of the Church of Jesus Christ of Latter-day Saints subsequently to the 1st day of July, A. D. 1862, and after said corporation had acquired and while it held real property of value in excess of $50,000, and the same was and is subject to forfeiture or escheat to the United States of America; that the defendant has no legal claim, estate, or title to the said property or any part thereof; that none of said property or its appurtenances is or ever was held or occupied exclusively for the purposes of the worship of God or as a parsonage or as a burial ground.

Wherefore it is prayed that the real property hereinbefore and in the title described and the whole thereof be forfeited and escheated to the United States of America, to be disposed of
7 according to law, and that the said United States have judgment against the defendant for their costs.

CHARLES S. VARIAN,
United States Attorney for Utah.

W. H. H. MILLER.
Attorney General United States.

Filed December 23rd, 1890.

Endorsed: Complaint. Fled Dec. 23, 1890. Henry G. McMillan, clerk.

8 In the District Court for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH Territory, particularly described as follows: An undivided ½ of the south half of the southeast ¼ and the southeast ¼ of the southwest ¼ and lot 4, in section 18, and the north half of the northeast ¼, in section 19, all of said land being in township three north, of range 6 east, in Summit county, Utah Territory; and Angus M. Cannon, Trustee, Defendant.

Answer.

Now comes said defendant, Angus M. Cannon, and for his answer to the complaint of plaintiff filed herein alleges—

That he has no information or belief sufficient to enable him to answer the allegation—

That on the 3rd day of March, 1887, when said corporation became dissolved, as alleged, it owned or held, by or through one John Taylor, its trustee, in trust, or by or through certain other persons, upon secret or express trusts, large tracts or parcels of real estate, exceeding in value one million dollars.

Defendant admits that the west half of the real estate described in plaintiff's complaint as the Temple block and alleges that also the east half of said block and all buildings and improvements upon the whole of said block at the date of the alleged dissolution of said corporation, as in said complaint alleged, were used exclusively for the worship of God according to the tenets of the Church of Jesus Christ of Latter-day Saints, but denies on information and belief that said block or any portion of it was
9 acquired or held in violation of said act of July 1st, 1862.

Defendant admits that in addition to the real estate known as the "Temple block," held or used as above alleged, said corporation of the Church of Jesus Christ of Latter-day Saints, on the 3rd day of March, 1862, acquired and was up to the date of its alleged dissolution holding in the name of one Angus M. Cannon, who held and now holds the same upon a trust, the following-described tract of land in Summit county, Utah Territory, to wit:

An undivided one-half of the following-described tract of land: The south half of the southeast ¼ and the southeast ¼ of the southwest ¼ and lot 4, section 18, and the north half of the northeast ¼ of section 19, all of said land being in the township three north, range six east, Salt Lake meridian.

Defendant on information and belief denies that the above-described piece of real estate was or is of the value of thirty thousand dollars or any other sum exceeding fifteen thousand dollars.

Defendant on information and belief denies that it is entire or otherwise in excess of the amount of real estate said corporation was by law entitled to hold.

Defendant alleges that he has no information or belief sufficient to enable him to answer the allegation that information against the hereinbefore-described property and all claimants thereto was filed in this court on the 8th day of October, 1888, or thereupon a monition was issued to the United States marshal of Utah Territory to seize the property and give due or other notice to all persons claiming the same or having authority to say why it should not be escheated to the United States to be and appear before the court at the time and place specified or then or there to make known their claims, or that said notice was duly or otherwise given or the
10 property seized, and on these grounds defendant denies said allegations and each of them.

Defendant admits that some sort of proceeding was had in said court on the date last aforesaid, and that this defendant appeared and made answer to said proceeding, and that he then and there made claim to said property, in trust for that certain voluntary religious association known as the Church of Jesus Christ of Latter-day Saints, which said association is composed of the members of said church or former corporation as aforesaid and is successor to said alleged corporation.

Defendant further alleges that he now makes the same claim that he did in his aforesaid answer aforesaid.

Defendant admits that the real property above described was acquired by said corporation of the Church of Jesus Christ of Latter-day Saints *sea*sequently to the 1st day of July, 1862, but on information and belief denies that the same was subject to forfeit or escheat to the United States of America, and on like information and belief denies that defendant has no legal claim, estate, or title to said property or any part thereof.

Defendant, further answering the complaint of plaintiff, alleges that the land mentioned in plaintiff's complaint, described as block 87, plat "A," Salt Lake City survey, county of Salt Lake, Territory of Utah, known as the "Temple block," was on the 8th day of October, 1888, by a decree of the supreme court of the Territory of Utah, made and entered in the case of The United States of America *vs.* The Late Corporation of the Church of Jesus Christ of Latter-day Saints and John Taylor, late trustee in trust, and Wilford D. Woodruff, Lorenza Snow, Erastus Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grants, and John W. Taylor, late
11 assistant trustees in trust of said corporation, duly set apart to said Church of Jesus Christ of Latter-day Saints as an unincorporated body or religious association, to be held, managed, and controlled by certain trustees for said church for its use and bene and the use and benefit od said religious sect, for their use and convenience in the lawful exercise of worship according to the tenet of said sect or body, and the said decree remains of record and has never been reversed or modified.

Defendant, further answering, says that the plaintiff ought not to be permitted to maintain this action, because, as defendant alleges, all proceedings to forfeit or escheat said property or any part

thereof *is* barred by section 1047 of the Revised Statutes of the United States, and the said action did not nor did the alleged cause of forfeiture mentioned in the complaint accrue within five years before the commencement of this proceeding or the filing of said complaint or within five years prior to said dissolution of said corporation.

Further answering, this defendant alleges that said corporation during its existence embraced and included all the members of that religious sect or body of religious worshippers known as the Church of Jesus Christ of Latter-day Saints, and that from and after said dissolution of said corporation all the members of said body of religious worshippers have been and now are organized and existing as a voluntary religious association known as the Church of Jesus Christ of Latter-day Saints, and that the members of said voluntary association exceed in number two hundred thousand.

Defendant further alleges that he owns the property mentioned in said complaint and hereinbefore described, and that he
12 holds the legal title thereto, one-half for himself and the other half for undivided —, for the use and benefit of said voluntary religious association called the Church of Jesus Christ of Latter-day Saints, in trust for religious and charitable purposes; that said church has been ever since the 3rd day of March, 1887, a voluntary association for religious and charitable uses and purposes, and as such has the right to own and hold said property through trustees to be used for such purposes; that said defendant was in the possession of said property at the time it was seized by the United States marshal pursuant to the information and proceedings had hereinabove referred to.

Defendant further alleges that the interest that said Church Saints holds in said premises and property is of the value of about fifteen thousand dollars; that it cost — thousand dollars, and that said sum of money was paid by the duly authorized officers of said church from donations and contributions made by the members of said church from time to time and by and with their consent and approval, and that no part of said property was ever acquired or held in violation of the provisions of any law of the United States or for the purpose of sustaining, advancing, maintaining, or encouraging polygamy or unlawful cohabitation or for any other unlawful or improper purpose; but the same was held and it is now held for the use and benefit of said church, for religious and charitable purposes, and not otherwise.

Wherefore defendant asks that judgment be entered that plaintiff shall take nothing by its said action, and that said premises and property shall remain in this defendant for the uses and pur-
13 poses that he heretofore held it as aforesaid, and for his costs herein, and for such other and further relief as defendant may be entitled to in the premises.

F. S. RICHARDS,
LE GRAND YOUNG,
DICKSON & STONE,
Attorneys for Defendant.

TERRITORY OF UTAH,
County of Salt Lake, } ss:

Angus M. Cannon, being first duly sworn, on his oath does say that he is defendant in the above-named cause of action; that he has read the foregoing answer, and that the same is true of his own knowledge except those matters and things therein stated on information and belief, and those he believes to be true.

ANGUS M. CANNON.

Subscribed and sworn to before me this tenth day of October, 1891.

[SEAL.] JAMES JACK,
Notary Public.

Filed October 17th, 1891.

Endorsed: Answer. Filed Oct. 17th, 1891. H. G. McMillan, clerk, by Geo. D. Loomis, dep'ty.

14 In the District Court in and for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATED IN SUMMIT COUNTY, UTAH TERRITORY, particularly described as follows: The undivided ½ of the south ½ of the southeast ¼ and the southeast ¼ of the southwest ¼ and lot 4, in section 18, and the north ½ of the northeast ¼, in section 19, all of said lands being in township 3 north, of range 6 east, in Summit county, Territory of Utah; and Angus M. Cannon, Trustee, Defendant.

This cause coming on regularly to be heard before the court on the 7th day of November, A. D. 1891, a jury having been in writing expressly waived, all parties appearing by their respective counsel, evidence was adduced and arguments heard and the cause submitted to the court for its final decision. Now, on this day, the court, being fully advised in the law and premises, makes the following as its—

Findings of Fact.

1. That during all the time from the 19th day of January, A. D. 1885, to and including the 3rd day of March, A. D. 1887, the Church of Jesus Christ of Latter-day Saints was a corporation for religious and charitable purposes, organized and existing under the laws of the Territory of Utah; that on the 3rd day of March, A. D. 1887, said corporation was dissolved.

2. That all that certain tract and parcel of land now known and designated in the pleadings herein and in the official survey
15 of Salt Lake City as block 87, plat "A," Salt Lake City survey, commonly known as the Temple block, situated in the city and county of Salt Lake and Territory of Utah, was taken possession

of by the agents of said Church of Jesus Christ of Latter-day Saints, then existing as a voluntary religious association, when Salt Lake City was first laid out and surveyed in 1848, and since said date has been in the possession of the said church as a voluntary sect until it became incorporated as aforesaid and then as a corporation; that at the time the same was taken possession of as aforesaid it was a part of the public domain and continued to be such until said land was entered by the mayor of said city, along with other lands, on the 21st day of November, 1871, under the town-site act of Congress entitled "An act for the relief of the cities and towns upon the public lands," approved March 2nd, 1867; that on the 1st day of June, 1872, the same was conveyed by the mayor of said Salt Lake City to the trustees in trust of said corporation for the sole us- and benefit of said church corporation, in whom the title remained until the act of Congress of March 3rd, 1887, took effect; that on the 2nd day of March, 1867, the said premises were, ever since have been, and now are of a value largely exceeding $50,000; that during all of said period the said corporation was the real owner of and in actual possession of all of said tract of land.

3rd. That the real property described in the title hereof, to wit, the undivided ½ of the south ½ of the southeast ¼ and the southeast ¼ of the southeast ¼ and lot 4, in section 18, and the north ½ of the northeast ¼, in section 19, all of said land being in township 3 north, of range 6 east, in Summit county, Territory of Utah,
16 was purchased and acquired by the said late corporation of the Church of Jesus Christ of Latter-day Saints for its use and benefit on the 3rd day of April, A. D. 1880, but that the legal title to the same and the whole thereof was taken in the name of the defendant Angus M. Cannon, who ever since has held and now holds the said legal title on a secret trust for the sole use and benefit of said late corporation; that ever since said last-mentioned day and until the 3rd day of March, A. D. 1887, the date of the dissolution thereof, the said corporation was the owner of all and singular the *the* hereinbefore-described lands and premises, and on the 3rd day of March, A. D. 1887, aforesaid it was holding said property and the whole thereof as the beneficial owner thereof; that said corporation acquired and held said property after it had acquired and while it was holding all and singular the -ises known as block 87, plat "A," Salt Lake City survey, commonly known as the Temple block, in said Territory, and while the value of said last-mentioned premises largely exceeded $50,000

4th. That on the 8th day of October, A. D. 1888, the supreme court of the Territory of Utah, in a cause then pending before it to which the said late corporation of the Church of Jesus Christ of Latter-day Saints and the defendant herein, Angus M. Cannon, and the members of the unincorporated association sect known as the Church of Jesus Christ of Latter-day Saints, appearing by George Romney, Henry Dinwoodey, James Watson, and John Clark, in behalf of themselves and the said members, were parties, and of which cause and the parties thereto the said supreme court then and there had jurisdiction, found, adjudged, and decreed that all of the prop-

TERRITORY OF UTAH,
County of Salt Lake, } ss:

Angus M. Cannon, being first duly sworn, on his oath does say that he is defendant in the above-named cause of action; that he has read the foregoing answer, and that the same is true of his own knowledge except those matters and things therein stated on information and belief, and those he believes to be true.

ANGUS M. CANNON.

Subscribed and sworn to before me this tenth day of October, 1891.

[SEAL.] JAMES JACK,
Notary Public.

Filed October 17th, 1891.

Endorsed: Answer. Filed Oct. 17th, 1891. H. G. McMillan, clerk, by Geo. D. Loomis, dep'ty.

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vs.
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This cause coming on regularly to be heard before the court on the 7th day of November, A. D. 1891, a jury having been in writing expressly waived, all parties appearing by their respective counsel, evidence was adduced and arguments heard and the cause submitted to the court for its final decision. Now, on this day, the court, being fully advised in the law and premises, makes the following as its—

Findings of Fact.

1. That during all the time from the 19th day of January, A. D. 1885, to and including the 3rd day of March, A. D. 1887, the Church of Jesus Christ of Latter-day Saints was a corporation for religious and charitable purposes, organized and existing under the laws of the Territory of Utah; that on the 3rd day of March, A. D. 1887, said corporation was dissolved.

2. That all that certain tract and parcel of land now known and designated in the pleadings herein and in the official survey
15 of Salt Lake City as block 87, plat "A," Salt Lake City survey, commonly known as the Temple block, situated in the city and county of Salt Lake and Territory of Utah, was taken possession

of by the agents of said Church of Jesus Christ of Latter-day Saints, then existing as a voluntary religious association, when Salt Lake City was first laid out and surveyed in 1848, and since said date has been in the possession of the said church as a voluntary sect until it became incorporated as aforesaid and then as a corporation; that at the time the same was taken possession of as aforesaid it was a part of the public domain and continued to be such until said land was entered by the mayor of said city, along with other lands, on the 21st day of November, 1871, under the town-site act of Congress entitled "An act for the relief of the cities and towns upon the public lands," approved March 2nd, 1867; that on the 1st day of June, 1872, the same was conveyed by the mayor of said Salt Lake City to the trustees in trust of said corporation for the sole us- and benefit of said church corporation, in whom the title remained until the act of Congress of March 3rd, 1887, took effect; that on the 2nd day of March, 1867, the said premises were, ever since have been, and now are of a value largely exceeding $50,000; that during all of said period the said corporation was the real owner of and in actual possession of all of said tract of land.

3rd. That the real property described in the title hereof, to wit, the undivided $\frac{1}{2}$ of the south $\frac{1}{2}$ of the southeast $\frac{1}{4}$ and the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ and lot 4, in section 18, and the north $\frac{1}{2}$ of the northeast $\frac{1}{4}$, in section 19, all of said land being in township 3 north, of range 6 east, in Summit county, Territory of Utah,
16 was purchased and acquired by the said late corporation of the Church of Jesus Christ of Latter-day Saints for its use and benefit on the 3rd day of April, A. D. 1880, but that the legal title to the same and the whole thereof was taken in the name of the defendant Angus M. Cannon, who ever since has held and now holds the said legal title on a secret trust for the sole use and benefit of said late corporation; that ever since said last-mentioned day and until the 3rd day of March, A. D. 1887, the date of the dissolution thereof, the said corporation was the owner of all and singular the *the* hereinbefore-described lands and premises, and on the 3rd day of March, A. D. 1887, aforesaid it was holding said property and the whole thereof as the beneficial owner thereof; that said corporation acquired and held said property after it had acquired and while it was holding all and singular the -ises known as block 87, plat "A," Salt Lake City survey, commonly known as the Temple block, in said Territory, and while the value of said last-mentioned premises largely exceeded $50,000

4th. That on the 8th day of October, A. D. 1888, the supreme court of the Territory of Utah, in a cause then pending before it to which the said late corporation of the Church of Jesus Christ of Latter-day Saints and the defendant herein, Angus M. Cannon, and the members of the unincorporated association sect known as the Church of Jesus Christ of Latter-day Saints, appearing by George Romney, Henry Dinwoodey, James Watson, and John Clark, in behalf of themselves and the said members, were parties, and of which cause and the parties thereto the said supreme court then and there had jurisdiction, found, adjudged, and decreed that all of the prop-

erty in the title hereof and in finding 3 mentioned was on the 3rd day of March, A. D. 1887, the date of the dissolution of said corporation, owned by and the property of said late corporation, the Church of Jesus Christ of Latter-day Saints, and that none of it had ever been used as buildings or grounds appurtenant thereto for the purposes of the worship of God or of parsonages connected
17 therewith or for burial grounds by the said corporation of the Church of Jesus Christ of Latter-day Saints, and that no part of it was necessary for such purposes for the unincorporated religious sect known as the Church of Jesus Christ of Latter-day Saints.

5. That all of block 87, in plat "A," Salt Lake City survey, commonly known as the Temple block, situate in the city and county of Salt Lake and Territory of Utah, hereinbefore mentioned, and largely exceeding in value the sum of $50,000, has been heretofore claimed by the said corporation, the Church of Jesus Christ of Latter-day Saints, and its successor, the Church of Jesus Christ of Latter-day Saints, an unincorporated body and religious sect composed of all the members of the said late corporation, as property held *and* all the members of the said late corporation and its successor, the said unincorporated association and religious sect, exclusively for the purposes of the worship of God, and upon the nomination of the regularly constituted authorities of said unincorporated association, as provided by law, was, by decree of the supreme court of the Territory of Utah in the cause then pending before it, mentioned in finding four, duly set apart to the said unincorporated association for the benefit of said unincorporated body and religious sect and for the erection and use by them of houses of worship and for their use and convenience and the legal exercise of worship according to the tenets of said sect and body, which said property, on the 3rd day of March, A. D. 1887, the date of the dissolution of the said late corporation, largely exceeded and does now largely exceed in value the sum of $50,000.

6. That these proceedings were commenced on October 8th, 1888, by filing a general information against the property described in the title and in these findings; that thereupon the monition
18 was issued and the property seized by the marshal and notice given to all claimants; that no claimants other than the defendant Angus M. Cannon, trustee, have ever appeared or made claim to the property or any part thereof.

7. That the defendant Angus M. Cannon, as trustee or otherwise, has no right, title, claim, or interest in or to any of the property mentioned in the title hereof and in these findings.

As Conclusions of Law

The court finds—

That all of the real property described in these and in the title hereof was acquired and, on the 3rd day of March, A. D. 1887, the date of the dissolution, held by the late corporation of the Church of Jesus Christ of Latter-day Saints in violation of the act of Congress

approved July 8th, 1862; that no part thereof was or is held or occupied exclusively for the purposes of the worship of God or of parsonages connected therewith or for burial grounds, and it is subject to the forfeiture and escheatment to the United States of America, as provided by section 13 of an act of Congress entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes.'"

Let judgment be entered accordingly.

C. S. ZANE, *Judge.*

Dated Dec. 4th, 1891.

Attest:

HENRY G. McMILLAN, *Clerk,*
By GEORGE D. LOOMIS, *Deputy.*

Filed December 5th, 1891.

19 In the District Court in and for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH Territory, particularly described as follows: The undivided one-half of the south ½ of the southeast ¼ and the southeast ¼ of the southeast ¼ and lot 4, in section 18, and the north ½ of the northeast ¼, in section 19, all of said lands being in township 3 north, of range 6 east, in Summit county, Territory of Utah; and Angus M. Cannon, Trustee, Defendants.

This cause came on regularly to be heard on the 7th day of November, A. D. 1891, before the court sitting without a jury, which was expressly waived in writing by the respective parties; whereupon evidence was adduced and counsel heard and the cause submitted to the court for its final decision. Afterwards, being fully advised in the law and premises, the court delivers its decisions and makes its findings of fact and conclusions of law, which were filed, and orders that judgment be entered accordingly.

Wherefore, by reason of the law and the findings aforesaid—

It is ordered and adjudged that the defendant Angus M. Cannon, trustee, has no right, title, interest, or claim of any kind or description in or to any of the premises hereinafter men-
20 tioned and described or the possession thereof or any part thereof.

And it is further ordered and adjudged that the following lands and premises, situate in the county of Summit, Territory of Utah, and the whole thereof be forfeited and escheated to the plaintiff, The United States of America, as real property acquired and held on the 3rd day of March, A. D. 1887, by the late corporation the Church of Jesus Christ of Latter-day Saints in violation of the laws of the said United States—that is to say:

The undivided one-half of the south ½ of the southeast ¼ and the southeast ¼ of the southwest ¼ and lot 4, in section 18, and the north ½ of the northeast ¼, in section 19, all of said lands being in township 3 north, of range 6 east, in Summit county, Territory of Utah; and the said lands and premises and the whole thereof are hereby forfeited and escheated to the said United States of America.

And it is further ordered and adjudged that the plaintiff do have and recover from the defendant Angus M. Cannon, trustee, the costs of this proceeding herein incurred, taxed at —— dollars.

Dated this 4th day of December, A. D. 1891.

C. S. ZANE, *Judge.*

Filed December 5th, 1891.

21 In the District Court in and for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH TERritory, particularly described as follows: The undivided ½ of the south ½ of the S. E. ¼ and the S. E. ¼ of the S. S. W. ¼ and lot 4, in section 18, and the north ½ of the N. E. ¼, in section 19, all of said lands being in township 3 north, of range 6 east, in Summit county, Territory of Utah; and Angus M. Cannon, Trustee, Defendants.

Notice of Appeal.

To the plaintiff and its attorneys, W. H. H. Miller and Charles S. Varian:

Please take notice that the defendants in the above-entitled action hereby appeals to the supreme court of this Territory from the judgment therein made and entered in said district court on the 4th day of December, 1891, in favor of the plaintiff in said action and against said defendants and from the whole thereof.

F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for Defendants.

Filed December 1st, 1892.

22 *Assignment of Errors.*

First. The court — in deciding that said property was or is subject to forfeiture or escheat, for the reason that it was disclosed by the evidence and is incorporated in the findings of fact that said plaintiff could not legally bring or prosecute said action because all proceedings to forfeit or escheat said property or any part of it *was* and *is* barred by section 1047 of the Revised Statutes of the United States, nor did the said action or the cause of forfeiture accrue within five years before the filing of the complaint in this action or within five

years prior to the commencement of said proceedings or five years before the dissolution of said corporation, nor was said action to forfeit and escheat said property begun within five years prior to the time said penalty and forfeiture accrued.

Second. The court erred in this, said decree is unsupported by the evidence and findings of fact for the reasons shown in the errors above set forth.

F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for Defendant.

23 In the District Court of the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH TERRITORY, and ANGUS M. CANNON, Trustee, Defendant-.

We, the undersigned, attorneys for plaintiff and defendants, hereby certify that the foregoing transcript of record and copies of judgment-roll and notice in the above-entitled case are true and correct, and that an undertaking on appeal in said case in the usual and due form has been filed with the clerk of the above-entitled court on the — day of November, 1892.

Dated December 3rd, 1892.

C. S. VARIAN,
Attorney for Plaintiff.
F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for Defendants.

24 In the Supreme Court of Utah Territory, Regular June Term, 1893.

UNITED STATES OF AMERICA
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH TERRITORY, and ANGUS M. CANNON *et al.*, Appellants.
* * *

THURSDAY, *June 15th.*

This cause, coming on regularly for hearing, was argued by Messrs. Le Grand Young, W. H. Dickson, and Franklin S. Richards in behalf of appellants and by John A. Marshall, Esq., and Hon. John W. Judd, United States attorney, in reply, was submitted and taken under advisement.

25 In the Supreme Court of Utah, Regular June Term, 1893.

THE UNITED STATES OF AMERICA
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH, etc., and ANGUS M. CANNON, Trustee, Appellants. } # 328.

THURSDAY, *Aug.* 31*st.*

This cause having been heretofore argued and submitted, and the court being sufficiently advised thereon, it is now here considered, ordered, and adjudged that the judgment of the district court therein be, and the same is hereby, affirmed with costs.

Thereupon counsel for appellants prayed the allowance of an appeal from the judgment of this court this day rendered herein to the Supreme Court of the United States and asked that the amount of a bond to be given thereon and bond for costs be now fixed, and it was ordered that such appeal as prayed for be, and is hereby, allowed, and the amount of a bond to be given thereon and bond for costs is fixed in the sum of five thousand (5,000) dollars.

26 328.

In the Supreme Court of Utah.

THE UNITED STATES
vs.
THE CHURCH COAL LANDS and A. M. CANNON, Trustee, App'l'ts. } Opinion.

SMITH, *J.:*

The church first obtained an interest in the lands proceeded against in this case on April 3rd, 1880, as shown by the findings of fact and not disputed.

In accordance with the opinion of The United States against The Tithing Yard the judgment of the district court declaring the land proceeded against herein escheated to the United States is affirmed.

We concur.
MINOR, *J.*
BARTCH, *J.*

Endorsed: Title court and cause. Opinion. Filed Aug. 31st, 1893. Jos. P. Bache, clerk.

27 By the Honorable Charles S. Zane, chief justice of Utah, to the United States of America and to Richard J. Olney, Attorney General; John W. Judd, U. S. attorney for Utah, and John A. Marshall, Esq., its attorneys, Greeting:

Whereas Certain Real Estate situate in Summit County, Utah Territory, particularly described as follows, to wit, the undivided ½ of the south ½ of the southeast ¼ and the southeast ¼ of the south-

west ¼ and lot 4, in section 18, and the north half of the northeast ¼, in section 19, all of said lands being in township 3 north, of range 6 east, Salt Lake meridian, and Angus M. Cannon, trustee, have lately appealed to the Supreme Court of the United States from a judgment and decree rendered in the supreme court of Utah Territory in favor of you, the said United States of America, and having filed the security required:

You are therefore hereby cited and admonished to be and appear before the Supreme Court of the United States to be holden at the city of Washington, D. C., within sixty (60) days from date of this citation, to do and receive what may pertain to justice to be done in the premises.

Given under my hand, at the city of Salt Lake, in the Territory of Utah, this 3rd day of Oct., A. D. 1893.

{ Seal Supreme Court, Territory of Utah, United States of America. }

C. S. ZANE,
Chief Justice of Utah Territory.

Attest: JOSEPH P. BACHE,
Clerk Supreme Court of Utah.

Due service of a copy of the above citation admitted this 4th day of October, A. D. 1893.

JOHN W. JUDD,
U. S. Attorney, for Respondent.

27½ [Endorsed:] 328. In the supreme court of Utah. The United States *vs.* Certain Real Estate in Summit County, Utah, * * * known as Coal Lands etc., *et al.*, appellants. Original citation. Filed in the supreme court Oct. 4, 1893, at Salt Lake City, Utah. Jos. P. Bache, clerk.

28 In the Supreme Court of the United States.

THE UNITED STATES OF AMERICA, Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH Territory, particularly described as follows: An undivided one-half (½) of the south half of the southeast quarter and the southeast quarter of the southwest quarter and lot four (4), section 18, and the north half of the northeast quarter, in section 19, all of said land being in township three (3) north, of range six (6) east, in Summit county, Utah Territory; and Angus M. Cannon, Trustee, Appellants.

Assignment of Errors.

Now comes said lands in the caption hereof described, by its attorneys, and Angus M. Cannon, trustee, and says—

That in the record and proceedings in the above-entitled matter there is manifest error, in this, to wit: That the supreme court

of Utah Territory erred in rendering the judgment and decree herein in affirming the judgment and decree of the district court of the third judicial district of Utah Territory for the reason it is shown by the evidence and by the record in said cause that said Church of Jesus Christ of Latter-day Saints was an
29 organized and existing corporation for religious and charitable purposes during all the time from the 19th day of January, 1855, till the 3rd day of March, 1887; that on or about the 3rd day of April, 1880, the said church acquired and held by trustees an undivided one-half of said premises known as the Church Coal Lands, and that no action or suit was begun by plaintiff to forfeit or escheat the same till November 5th, 1890, and whereas more than five years had elapsed after plaintiff's alleged right of action had accrued to forfeit or escheat said property, and that thesaid supreme court of Utah erred in affirming the judgment and decree of the said district court of the third judicial district in and for the Territory Utah for the reason that said action to forfeit and escheat said premises and property is and was barred by virtue of section 1047 of the Revised Statutes of the United States, and for the reason that said action was not begun or proceedings commenced to forfeit or escheat said property within five years after said alleged cause of action or penalty had accrued.

Second. The court erred in holding that the United States of America had a right to forfeit or escheat said premises for the reason that the record shows that the legal title to said property was never at any time held by said corporation.

Wherefore the said appellants pray that the said judgment of the supreme court of Utah Territory be reversed, and that the said court be directed to reverse the judgment of the district court of the third judicial district of Utah Territory.

F. S. RICHERDS,
LE GRAND YOUNG,
Attorneys for Appellants.

29½ [Endorsed:] In the Supreme Court of the United States. The United States *vs.* Certain Real Estate * * * known as the Coal Lands, &c., *et al.*, appellants. Assignment of errors. Filed in the supreme court Oct. 23, 1893, at Salt Lake City, Utah. Jos. P. Bache, clerk.

30 In the Supreme Court of Utah Territory.

THE UNITED STATES OF AMERICA, Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SUMMIT COUNTY, UTAH TERRITORY, particularly described as follows, to wit: The undivided ½ of the south ½ of the southeast ¼ and the southeast ¼ of the southwest ¼ and lot 4, in section 18, and the north ½ of the northeast ¼, in section 19, all of said lands being in township 3 north, of range 6 east, Salt Lake meridian; and Angus M. Cannon, Trustee, Appellants.

Undertaking on Appeal.

Know all men by these presents that we, Elias A. Smith and James T. Little, both of Salt Lake City, Salt Lake county, Utah Territory, are held and firmly bound unto the above-named United States of America in the sum of five thousand dollars, that being the amount fixed by the supreme court of Utah Territory to be paid to the said United States of America; for the payment of which, well and truly to be made, we bind ourselves and each of us and our and each of our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 18th day of September, A. D. 1893.

Whereas the above-named Angus M. Cannon, trustee, and the above-described land have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the supreme court of Utah Territory on the 31st day of August, 1893:

Now, therefore, the condition of this obligation is such
31 that if the above-named Angus M. Cannon, trustee, and the land aforesaid shall prosecute said appeal to effect and answer all damages and costs if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

ELIAS SMITH.
JAMES T. LITTLE.

Sealed, delivered, taken, and acknowle-ged this 18th day of September, 1893, before me, H. S. Young, notary public, Salt Lake City, Salt Lake county, Utah Territory.

[SEAL.] H. S. YOUNG,
Notary Public.

My commission expires Oct. 10th, 1893.

Approved:
C. S. ZANE,
Chief Justice.

Sept. 19, 1893.
3—301

Endorsed: #328. Title court and cause. Undertaking on appeal. Filed in the supreme court Sep. 19, 1893, at Salt Lake City, Utah. Jos. P. Bache, clerk, by John C. Shipp, dep. cl'k.

32 328.

UNITED STATES OF AMERICA, } ss:
Territory of Utah, }

I, Joseph P. Bache, clerk of the supreme court of Utah, in pursuance of an appeal allowed in the case of The United States of America, respondent, *vs.* Certain Real Estate situate in Summit County, Utah Territory, * * * and Angus M. Cannon *et al.*, appellants, lately pending in said court, do return attached hereto a transcript of the record and proceedings, opinion, assignment of errors, supersedeas bond, and bond for costs, together with the original citation, all in and of said court in said cause, to the Supreme Court of the United States, and I hereby certify that said attached transcript of said record and proceedings, opinion, assignment of errors, supersedeas bond, and bond for costs is a full, true, and complete copy of the several originals thereof on file or of record in my office.

Seal Supreme Court, Territory of Utah, United States of America.

In witness whereof I hereunto set my hand and affix the seal of the supreme court of Utah Territory, this 23rd day of October, A. D. 1893, at Salt Lake City, Utah.

JOSEPH P. BACHE,
Clerk Supreme Court of Utah.

Endorsed on cover: Case No. 15,460. Utah Territory supreme court. Term No., 301. Certain Real Estate known as the Coal Lands & Angus M. Cannon, trustee, appellants, *vs.* The United States. Filed December 4, 1893.